

BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA


In the Matter of the Accusation)
Against:)
)
)
BALDOMERO DELEON, JR., M.D.) No. 12-91-10485
Certificate No. G-35749)
)
)
Respondent.)

DECISION

The attached Stipulation and Waiver is hereby adopted by the Division of Medical Quality
as its Decision in the above-entitled matter.

This Decision shall become effective on April 29, 1995.

IT IS OR ORDERED March 30, 1995.

By: 
IRA LUBELL, M.D.
Chair
Division of Medical Quality

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 VIVIEN H. HERSH
Supervising Deputy Attorney General
3 RONALD V. THUNEN, JR., State Bar No. 041145
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Attorneys for Complainant
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9 BEFORE THE DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
10 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA
11

12 In the Matter of the Accusation)	Case No. D-5546
Against:)	
13)	OAH No. N 9407061
Baldomero DeLeon, Jr., M.D.)	
14 1479 Ygnacio Valley Rd.)	STIPULATION AND WAIVER
Walnut Creek, CA 94598)	
15)	Date: Jan. 13, 1995
License No. G35749)	Time: 1:30 p.m.
16)	
Respondent.)	
17)	

18 IT IS HEREBY STIPULATED AND AGREED by and between the
19 parties to the above-entitled matter as follows:

20 1. At the time of executing and filing the Accusation
21 in the above matter, complainant, Dixon Arnett, was the Executive
22 Director of the Medical Board of California, Department of
23 Consumer Affairs, State of California (hereinafter "Board"), and
24 performed said acts solely in his official capacity as such.

25 2. Complainant is represented herein by Daniel E.
26 Lungren, Attorney General of the State of California, by Ronald
27 V. Thunen, Jr., Deputy Attorney General.

1 3. Baldomero, DeLeon, M.D. (hereinafter
2 "respondent"), is representing himself in this matter.
3 Respondent has read this Stipulation, and he represents that he
4 fully understands the provisions contained in this Stipulation
5 and their effect.

6 4. Respondent has received and read the Accusation
7 which is presently on file and pending in Case No. D-5546 before
8 the Medical Board of California. A true and accurate copy of
9 said Accusation No. D-5546 is attached hereto as Exhibit A.

10 5. Respondent understands the nature of the charges
11 alleged in the above-mentioned Accusation and that said charges
12 and allegations would constitute cause for imposing discipline
13 upon the respondent's physician's and surgeon's certificate,
14 heretofore issued by the Board.

15 6. Respondent is aware of and has had explained to
16 him by his own counsel each of respondent's rights, including the
17 right to a hearing on the charges and allegations; respondent's
18 right to confront and cross-examine witnesses who would testify
19 against him; respondent's right to present evidence in his favor
20 or to call witnesses in his behalf, or to so testify himself;
21 respondent's right to contest the charges and allegations and any
22 other rights which may be accorded to him pursuant to the
23 California Administrative Procedure Act, Government Code section
24 11500 *et seq.*; his right to reconsideration, to appeal to
25 Superior Court by way of writ of mandate, and to any other or
26 further appeal. Respondent understands that in signing this
27 Stipulation, he voluntarily waives his right to hearing, to

1 reconsideration, to appeal, and to any and all other rights which
2 may be accorded to him by the California Administrative Procedure
3 Act and the Code of Civil Procedure, except those rights to
4 petition for reinstatement or reduction of penalty as set forth
5 in Business and Professions Code section 2307.

6 7. All admissions of fact or conclusions of law set
7 forth in this Stipulation are made exclusively for this
8 proceeding and any future proceeding between the Board and the
9 respondent, and shall not be deemed to be admissions for any
10 purpose in any other administrative, civil, or criminal action,
11 forum or proceeding.

12 8. Respondent stipulates and agrees that there is a
13 factual basis to the charges against him and that there are
14 grounds for disciplinary action against him, pursuant to Business
15 and Professions Code section 2234. Respondent specifically
16 acknowledges that, in his treatment of patient L.C. at the time
17 of her admission to a skilled nursing facility in September 1983
18 until she ceased to be his patient in January 1991, he repeatedly
19 failed to visit the patient in the skilled nursing facility
20 within 30 days of the previous visit. Specifically, respondent
21 admits that Exhibit 1 to the Accusation is an accurate
22 recapitulation of his visits to see the patient during her time
23 at the convalescent facility. Respondent further admits that
24 while the standard of care may require more frequent visits to
25 check on the condition of a patient whose physical and mental
26 condition is such that she is unable to care for herself, the 30
27 day patient visit interval prescribed by 22 CCR § 72307(a)

1 establishes a minimum standard of care for the treatment of such
2 patients.

3 9. In mitigation, respondent submits that he had
4 requested that the patient's conservator engage the services of
5 another physician to replace respondent.

6 10. Respondent acknowledges, however, that unless and
7 until a treating physician is replaced, the treating physician
8 has a continuing responsibility to treat the patient in
9 accordance with the standard of care.

10 11. Based upon all the foregoing admissions,
11 stipulations and recitals, it is stipulated and agreed that the
12 Board may issue a decision upon this stipulation whereby:

13 (1) License No. G35749 issued to respondent
14 Baldomero DeLeon, M.D. is suspended for a period of one year.
15 However, suspension is stayed and respondent is placed on
16 probation for four years upon the following terms and conditions:

17 (2) Within 90 days of the effective date of this
18 decision, and on an annual basis thereafter, respondent shall
19 submit to the Board for its prior approval an educational program
20 or course to be designated by the Board, which shall not be less
21 than 40 hours per year, for each year of probation. This program
22 shall be in addition to the normal continuing medical education
23 requirements for relicensure. Following the completion of each
24 course, the Board or its designee may administer an examination
25 to test respondent's knowledge of the course. Respondent shall
26 provide proof of attendance for 65 hours of continuing medical

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1 education of which 40 hours were in satisfaction of this
2 condition and were approved in advance by the Board.

3 (3) Within 60 days of the effective date of this
4 decision, respondent shall submit to the Board for its prior
5 approval a course in ethics, which respondent shall successfully
6 complete during the first year of probation.

7 (4) Within 30 days of the effective date of this
8 decision, respondent shall submit to the Board for its prior a
9 plan of practice in which respondent's practice shall be
10 monitored by another physician in respondent's field of practice,
11 who shall provide periodic reports to the Board.

12 If the monitor resigns or is no longer available,
13 respondent shall, within 15 days, move to have a new monitor
14 appointed, through nomination by respondent and approval by the
15 Board. The monitoring program will be limited to a review of
16 respondent's records with respect to the care of patients who
17 have been admitted to a skilled nursing facility.

18 (5) Both the increased continuing medical
19 education requirements set forth in paragraph 2 above and the
20 monitoring requirements set forth in paragraph 4 above will be
21 terminated after two years if respondent has successfully
22 completed all aspects of his probation during that time; however,
23 if respondent's performance during the first two years of
24 probation is deficient in any respect, these requirements shall
25 be extended at the discretion of the Board.

26 (6) Respondent shall pay to the Board the sum of
27 \$1,250.00 as the Board's reasonable costs of investigation and

1 enforcement in this matter.

2 (7) Respondent shall obey all federal, state and
3 local laws and all rules governing the practice of medicine in
4 California.

5 (8) Respondent shall submit quarterly
6 declarations under penalty of perjury on forms provided by the
7 Board, stating whether there has been compliance with all the
8 conditions of probation.

9 (9) Respondent shall comply with the Board's
10 probation surveillance program.

11 (10) Respondent shall appear in person for
12 interviews with the Board's medical consultant upon request at
13 various intervals and with reasonable notice.

14 (11) The period of probation shall not run during
15 the time respondent is residing or practicing outside of the
16 jurisdiction of California. If during probation respondent moves
17 out of California to reside or practice elsewhere, respondent is
18 required to immediately notify the Board in writing of the date
19 of departure, and the date of return, if any.

20 (12) Upon successful completion of probation,
21 respondent's certificate will be fully restored.

22 (13) If respondent violates probation in any
23 respect, the Board after giving respondent notice and the
24 opportunity to be heard may revoke probation and carry out the
25 disciplinary order that was stayed. If an accusation or petition
26 to revoke probation is filed against the respondent during
27 probation, the Board shall have continuing jurisdiction until the

1 matter is final and the period of probation shall be extended
2 until the matter is final.

3 12. This Stipulation is subject to approval of the
4 Board. If the Board fails to approve this Stipulation, it shall
5 be of no force or effect for either party.

6 DATED: 8 FEBRUARY 1995

7 DANIEL E. LUNGREN
8 Attorney General

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10 RONALD V. THUNEN, JR.
11 Deputy Attorney General

12 Attorneys for Complainant

13 I hereby certify that I have read the Stipulation for
14 Settlement in its entirety, that I fully understand the legal
15 significance and consequences thereof, that I fully understand
16 the terms of this Stipulation for Settlement, that it will result
17 in disciplinary action being imposed on my license to practice
18 medicine, that I voluntarily agree to the terms of this
19 Stipulation for Settlement, and in agreement thereto, I affix my
20 signature this 7th day of February, 1995, at
21 Walnut Creek, California.

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24 BALDOMERO DeLEON, M.D.
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1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 VIVIEN H. HERSH
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5 Telephone: (415) 703-2831

6 Attorneys for Complainant

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8 BEFORE THE
9 MEDICAL BOARD OF CALIFORNIA
DIVISION OF MEDICAL QUALITY
10 STATE OF CALIFORNIA

11 In the Matter of the Accusation) No.D-5546
12 Against:)
13 Baldomero DeLeon, Jr., M.D.)
14 1479 Ygnacio Valley Rd.)
Suite 201)
15 Walnut Creek, CA 94598)
License No. G35749)
16 Respondent.)
17

18 DIXON ARNETT, complainant herein, charges and alleges
19 as follows:

20 1. He is the Executive Director of the Medical Board
21 of California (hereafter "Board"), and makes these charges and
22 allegations solely in his official capacity.

23 2. At all times material herein, respondent, Baldomero
24 DeLeon, Jr., M.D., has held Physicians and Surgeons License No.
25 G35749, issued by the Board on or about October 31, 1977. The
26 license is paid and current through till February 28, 1994.

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1 patient which continued for more than seven years.

2 7. Section 72307(A) of Title 22 of the California
3 Code of Regulations requires that each patient who is admitted to
4 a skilled nursing facility shall be under the continuing
5 supervision of a physician. This regulation further defines
6 "continuing supervision" as to require a physician visit and
7 evaluation at least every 30 days unless the physician has
8 submitted, and received approval for, a plan for a lesser
9 frequency of visits; in no case, however, can the interval
10 between visits extend to longer than 60 days.

11 8. The above regulation does not supersede the
12 standard of care for a physician who undertakes responsibility
13 for the supervision of an in-patient in a skilled nursing
14 facility; rather, it establishes a minimum level of care for a
15 patient whose mental and physical condition are such that minimal
16 deterioration is likely to occur. The standard of care, however,
17 is dictated by the needs of the individual patient; in other
18 words, the standard of care may require a higher frequency of
19 visits than that prescribed by regulation, but it cannot require
20 a frequency lower than that established by regulation.

21 9. Throughout the period of the patient's
22 hospitalization, until respondent was relieved in January of
23 1991, respondent knew and understood that he was responsible for
24 the supervision of the care rendered to this patient and also
25 knew (or should have known) that this responsibility included a
26 patient visit at least once every 30 days, unless a lesser
27 frequency had been expressly approved.

1 10. Exhibit 1 to this accusation, appended hereto and
2 incorporated herein by reference, is a tabulation of all known
3 visits by respondent to see patient L.C. during the period from
4 September 1983 through January 1991. Respondent was relieved of
5 responsibility for this patient on or about January 22, 1991.
6 Exhibit 1 demonstrates that respondent repeatedly failed to meet
7 the minimal 30 day visit interval prescribed by regulation,
8 notwithstanding the fact that respondent was regularly notified
9 of this delinquency. Respondent was notified of this delinquency
10 at least 25 times during this seven year period. During the two
11 year period from January 1, 1989 through December 31, 1990,
12 respondent visited this patient only nine times, when he should
13 have seen her at least 24 times. During this same period, he was
14 notified by the skilled nursing facility 11 times that he was
15 delinquent in his frequency of visits to this patient. Such a
16 delinquency, whether or not respondent was notified of it,
17 constitutes a separate act of negligence within the meaning of
18 Business and Professions Code section 2234(c). Accordingly,
19 taken as a whole, respondent's pattern of delinquency with
20 respect to this patient constitutes cause for disciplinary
21 action, pursuant to Business and Professions Code section
22 2234(c).

23 SECOND CAUSE FOR DISCIPLINE

24 11. The last time respondent actually saw this patient
25 was August 27, 1990 even though he remained responsible for the
26 supervision of this patient for more than four and a half months
27 thereafter. During this period, respondent was made aware of

1 changes in the patient's condition which would have dictated the
2 necessity of a patient visit from the above-described general and
3 minimum requirement of one visit each 30 days. When the patient
4 was evaluated by another physician on or about January 22, 1991,
5 she was found to be suffering from severe dehydration, severe
6 hypernatremia, anaerobic sepsis, malnutrition, and a 4x5 cm
7 sacral decubitus ulcer. That respondent had at least some
8 awareness of these changes in his patient's condition and still
9 did not visit the patient during this time period, constitutes
10 cause for disciplinary action pursuant to Business and
11 Professions Code section 2234(b), 2234(c), and 2234(d).


12 THIRD CAUSE FOR DISCIPLINE

13 Moreover, given the fact that respondent was aware of
14 some of the problems which his patient was experiencing during
15 this four and a half month period, it was incumbent upon
16 respondent to make further inquiry of the skilled nursing
17 facility staff or to conduct a personal examination of his
18 patient in order to ascertain the full extent of his patient's
19 problems at this time. To the extent that respondent was not
20 fully aware of all of the changes experienced by his patient
21 during this period, the failure to inform himself of these facts,
22 given the information which he did possess at that time,
23 constitutes a separate and several cause for disciplinary action,
24 pursuant to Business and Professions Code sections 2234(b),
25 2234(c), and 2234(d).

26 WHEREFORE, complainant prays that the Board hold a
27 hearing on the charges and allegations set forth herein, and

1 thereafter issue an order suspending or revoking respondent's
2 physician and surgeon's license number G35749, and take such
3 other action as it may deem proper.

4 DATED: 5/24/73

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7 Douglas L. Arnett, Deputy S.D. H. /

8 DIXON ARNETT
9 Executive Director
10 Medical Board of California
11 State of California

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Complainant

BALDOMERO DeLEON, JR., M.D. - EXHIBIT 1

<u>Dates of DeLeon Visits to L.C.</u>	<u>Interval (Days)</u>	<u>SNF Delinquency Notification</u>
09/09/83		
09/12/83	3	
10/17/83	35	
01/16/84	91	
03/05/84	47	
05/29/84	85	
08/01/84	57	07/16/84
09/10/84	40	
10/07/84	27	
11/19/84	43	
12/24/84	(Patient not in facility)	
01/07/85	42	
03/04/85	28	02/25/85
04/01/85	26	
04/29/85	28	04/24/85
05/29/85	30	
07/01/85	32	07/01/85
07/29/85	28	
08/26/85	28	
09/30/85	35	09/29/85
11/18/85	49	11/04/85
12/23/85	35	
01/27/86	35	
02/24/86	28	
03/31/86	36	
04/21/86	21	
06/02/86	42	
06/30/86	28	
07/28/86	28	
08/18/86	21	
09/29/86	42	
10/28/86	29	
01/05/87	69	
04/13/87	98	02/26/87
05/11/87	28	
06/19/87	39	
08/04/87	46	07/29/87
		09/24/87

(CONTINUED)

<u>Dates of DeLeon Visits to L.C.</u>	<u>Interval (Days)</u>	<u>SNF Delinquency Notification</u>
10/05/87	61	01/13/88 01/25/88
01/28/88	108	
03/07/88	38	
04/19/88	43	05/27/88
06/20/88	53	
08/08/88	56	
09/27/88	36	
01/09/89	105	
03/20/89	70	05/04/89
05/30/89	71	07/06/89
07/10/89	41	09/30/89 11/21/89
12/18/89	161	
02/05/90	49	04/11/90 04/24/90 04/27/90 06/18/90
07/09/90	154	08/24/90
08/27/90	49	09/27/90 12/26/90

NOTE: With the exceptions of 9/29/85, 11/04/85, 7/29/87, 9/27/90 and 12/26/90, all contacts were by phone.